
In the High Court of Punjab & Haryana at Chandigarh.

Date of decision : 14.8.2007.

Sanjay Kumar @ Sajneev Kumar and another

.... Petitioners.

vs

Smt.Shanti Devi and others.

.... Respondents.

Before : Hon'ble Mr. Justice R.S.Madan.

Present: Mr.J.L.Malhotra,Advocate,for the petitioners.

Judgment

R.S.Madan, J.

This revision petition has been filed by the petitioners for setting aside the impugned orders dated 15.11.2003 passed by the learned Civil Judge (Senior Division), Rewari and order dated 3.8.2007 passed by the learned Additional District Judge, Rewari, vide which their application under Order 39 Rules 1 and 2 CPC was dismissed.

The facts of the case are that Kundan Lal was the real uncle of the petitioners-plaintiffs. During his life time, he executed a registered Will dated 22.7.2002 in favour of the petitioners. After the death of Kundan Lal, the petitioners have become owners in possession of all the moveable and immovable property of Kundan Lal on the basis of that registered Will. It was also submitted that the deceased was drawing pension as he was retired from the Army. After the death of Kundan Lal, his wife- defendant no.1 has been drawing pension. They have also submitted that they have been serving respondent no.1 and have also served the deceased Kundan Lal and

in lieu of services rendered by them, Kundan Lal executed the will dated 22.7.2002 in their favour. On the basis of Will, the mutation of the land of Villages Chimnawas and Khori has already been mutated in favour of the petitioners. Kundan Lal and respondent no.1 had opened joint account and had FDRs in Punjab and Sindh Bank, Mundi and Union Bank of India, Khori. All the documents are in possession of respondent Shanti Devi and as per aforesaid Will, the petitioners are entitled to receive the entire amount. However, respondent no.1 in collusion with respondents no.2 and 3 wants to withdraw the entire amount. It has also prayed that if respondent no.1 succeeds in her illegal act, then they would suffer an irreparable loss which cannot be compensated in terms of money.

Respondent no.1 while replying has submitted that the Will dated 22.7.2002 is bogus as Kundan Lal was brought to Rewari for treatment as his mental condition was not good. It was also submitted that the petitioners neither served her nor her husband. It was pleaded that mutation was got sanctioned in her absence and without her knowledge. She also pleaded that taking undue advantage of her bad condition, the petitioners have stolen the documents.

After hearing the learned counsel for the parties, both the courts below dismissed the application of the petitioners.

It is contended by the learned counsel for the petitioners that their claim is based upon registered Will dated 22.7.2002 vide which they have become owners in possession of all the moveable and immovable property of Kundan Lal. This contention of the learned counsel has no force for the reason that respondent no.1 who is the widow of Kundan Lal

deceased has specifically pleaded that her husband was retired from Army and he used to put his signatures but the Will in question bears his thumb impression thus itself show that the deceased at the time of alleged execution of Will was not of sound mind due to his old age. Another important fact which has weighed on the mind of trial court while interpreting the Will is that Smt. Shanti Devi has not been given any share in the moveable and immovable property owned by Kundan Lal deceased. Even the FDRs which are in the joint name of Kundal Lal deceased and his wife Smt. Shanti Devi, in case of death of any the joint holder the other party was to receive the full payment on maturity, as per policy of the bank.

In the instant case, both the courts below have acted judiciously exercising their discretion in dismissing the application for injunction.

In view of the above, I find no ground to interfere with the orders passed by the two courts below. This revision is, accordingly, dismissed, in limine.

14.8.2007.
vs.

(R.S.Madan)
Judge.